IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

MFA.No. 876 of 2001(B)

OPMV.539/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA

.....

APPELLANT: APPLICANT:

RAMAKRISHNAN, S/O.NARAYANAN,
KANATHUKONAM ROADARIKATHU VEEDU,
DEVICODE, CHERUVALLOOR P.O.,
K.K.DISTRICT.

BY ADV. SRI.L.MOHANAN

RESPONDENTS: RESPONDENTS:

---

1. NESAMONY TRANSPORT CORPORATION,
REP. BY ITS MANAGING DIRECTOR,
NAGERCOIL.

2. C.SREEJAYANTH, KAMALAVILASOM BUNGLOW,
MALICODU, EDAICODE P.O., K.K.DISTRICT.

* 3. P.HARICHANDRAN, 146, NMK STREET,
ARAYANAPURAM, MADRAS – 23. (**DELETED**)

(R3 IS DELETED FROM THE PARTY ARRAY AT THE
RISK OF THE PETITIONER AS PER ORDER DATED
16.7.2007 IN I.A.No.1475/07)

BY ADV. SRI.SUBHASH CYRIAC

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No.876 of 2001

Dated this the 8th October, 2007.

J U D G M E N T

Petitioner in O.P.(M.V.) No.539/1994, on the file of the Motor Accidents Claims Tribunal, Neyyattinkara, is the appellant. Appellant has filed this appeal challenging the quantum of compensation awarded to him. Appellant met with a motor vehicle accident. He filed the original petition impleading the owner, driver and conductor of the stage carriage bus, owned by the first respondent, Nesamony Transport Corporation. The Original Petition was filed in the year 1994. It happened to be dismissed for default on 16.2.1999. Subsequently appellant filed a petition for restoration, and it was restored to file on 11.8.2000. The Tribunal found that the accident occurred due to the negligence on the part of the driver. It also found that the appellant was entitled to get a compensation of Rs.43,940/=. But interest was awarded only from 11.8.2000, the date on which the original petition dismissed for default was restored to file. The only question now arising for consideration is whether the appellant is entitled to get any additional compensation.

2. I have carefully gone through the quantum of compensation awarded under various heads. I do not find any reason to interfere with the finding of fact or amount awarded as compensation. But I am of the view that the Tribunal ought to have awarded the interest from the date of petition, till 16.2.1999, the date on which the petition was dismissed for default, and from 11.8.2000 onwards till realisation. So, the appellant is entitled to get interest at the rate now allowed from the date of filing of the petition till 16.2.1999.

In the result, appeal is allowed in part. Appellant was allowed to recovery interest at the rate of 12% per annum on the awarded compensation of Rs.43,940/=, from the date of filing of the original petition till 16.2.1999 also. On deposit of the amount, the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No.876 of 2001

J U D G M E N T

Dated: 8th October, 2007.